

1 BRIAN M. DAUCHER, Cal. Bar No. 174212  
2 ROBERT S. BEALL, Cal. Bar. No. 132016  
3 JOSEPH H. TADROS, Cal. Bar. No. 239379  
4 ASHLEY E. MERLO, Cal. Bar No. 247997  
5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
6 A Limited Liability Partnership  
7 Including Professional Corporations  
8 650 Town Center Drive, 4th Floor  
Costa Mesa, California 92626-1925  
Telephone: (714) 513-5100  
Facsimile: (714) 513-5130  
[bdaucher@sheppardmullin.com](mailto:bdaucher@sheppardmullin.com)  
[bdaucher@sheppardmullin.com](mailto:bdaucher@sheppardmullin.com)

10 | Attorneys for Defendants

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

14 TRAFFICSCHOOL.COM, INC., a  
15 California corporation; DRIVERS ED  
DIRECT, LLC., a California limited  
liability company,

Case No. CV067561 PA (CWx)  
*The Hon. Percy Anderson*

**Plaintiffs,**

V.

EDRIVER, INC., ONLINE GURU, INC., FIND MY SPECIALIST, INC., and SERIOUSNET, INC., California corporations; RAVI K. LAHOTI, an individual; RAJ LAHOTI, an individual, DOES 1 through 10.

#### Defendants.

## **DEFENDANTS' OBJECTION TO PLAINTIFFS' BILL OF COSTS**

Trial Commenced: November 7, 2007

Date: September 25, 2008

Date: September  
Time: 10:00 a.m.

Location: Room 917

[Complaint Filed November 28, 2006]

1 Pursuant to Local Rule 54-7, Defendants Edriver, Inc., Online Guru, Inc.,  
2 Find My Specialist, Inc., Seriousnet, Inc., Ravi K. Lahoti and Raj Lahoti hereby  
3 object to Plaintiffs' Bill of Costs on the grounds that \$62,993.76 in the costs sought  
4 to be reimbursed are unrecoverable as set forth below:

5 • **Trial Transcripts – Reduce By \$2,670.28 to \$557.08**

6 Plaintiffs seek reimbursement of \$3,227.36 for trial transcripts. However,  
7 included in this cost is \$2,670.28 for daily transcription fees. Plaintiffs are not  
8 entitled to recover costs for daily transcripts. Manildra Milling Corp. v. Ogilvie  
9 Mills, Inc., 76 F3d 1178, 1184 (Fed. Cir. 1996); Ferreira v. CCNI Antofagasta,  
10 Docket No. 2:04-cv-1916-MCE-DAD (E.D. Cal. 10-15-2007) (recovery of daily  
11 transcript fees denied since not indispensable). Accordingly, the line item for trial  
12 transcript fees should be reduced from \$3,227.36 by \$2,670.28 to \$557.08.

13 • **Deposition Transcripts – Reduce By \$1,845.48 to \$18,518.07**

14 Plaintiffs seek reimbursement of \$20,363.55 for deposition transcripts, of  
15 which \$1,845.48 comprises expedite fees and fees for overnight shipping. [See  
16 Exhibit C to Plaintiffs' Bill of Costs (invoices for deposition transcripts of Itamar  
17 Simonson, Gerald Flack, Hardy Warren and Janine Warren).] Plaintiffs are not  
18 entitled to recover fees charged for expedited deposition transcripts and overnight  
19 shipping of transcripts pursuant to Local Rule 54-4.6. See also Affymetrix, Inc.v.  
20 Multilyte Ltd., 2005 WL 2072113 at \*2 (N.D. Cal. 2005) ("Shipping or expedited  
21 delivery charges . . . are not allowed."). The line item for deposition transcript fees  
22 should therefore be reduced from \$20,363.55 by \$1,845.48 to \$18,518.07.

23 • **Other Costs – Expert Witness Fees – Reduce To Zero**

24 Plaintiffs seek, through the "other costs" line item, reimbursement of their  
25 non-court appointed expert witness fees in the amount of \$58,478. [See Exhibit F to  
26 Plaintiffs' Bill of Costs.]

1 Pursuant to 28 U.S.C. § 1920, the compensation of a court appointed expert  
2 may be taxed as a cost. The United States Supreme Court has held that a party may  
3 not recover fees for a non-court appointed expert. Crawford Fitting Co. v. J.T.  
4 Gibbons, Inc., 482 US 437, 439 (1987) (emphasis added) (affirming appellate court  
5 decisions that denied reimbursement of thousands of dollars of expert witness  
6 costs); see also Sea Coast Foods, Inc. v. Lu-Mar Lobster & Shrimp, Inc., 260 F.3d  
7 1054, 1061 (9th Cir. 2001) (request for reimbursement of expert witness fees  
8 correctly rejected); Coats v. Penrod Drilling Corp., 5 F3d 877, 891 (5th Cir. 1993)  
9 (expert witness fees of \$1,232.65 not recoverable).

10 Plaintiffs are therefore not entitled to recover the fees of their non-court  
11 appointed expert witness. Accordingly, the "other costs" line item should be  
12 reduced from \$58,478 to zero.

13 • **Summary – Total Cost Award Should Be Reduced To \$37,364.25**

14 After the reductions related to expedited transcripts, daily trial transcripts, and  
15 non-court appointed expert fees, Plaintiffs are entitled to recover a total of only  
16 \$37,364.25 through their Bill of Costs. Defendants request that the award of costs  
17 be limited to this sum, \$37,364.25.

18  
19 Dated: September 15, 2008

20 Respectfully submitted,

21  
22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

23 By \_\_\_\_\_  
24

  
BRIAN M. DAUCHER

25  
26 Attorneys for Defendants  
27  
28